

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)	
)	
)	
JUERGEN G. WINKLER, M.D.)	Case No. 10-2009-200762
)	
Physician's and Surgeon's)	
Certificate No. G 67075)	
)	
Respondent.)	
_____)	

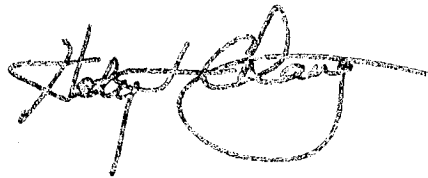
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on July 13, 2012.

IT IS SO ORDERED June 13, 2012.

MEDICAL BOARD OF CALIFORNIA



By: _____
Hedy Chang, Chair
Panel B

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 MICHAEL S. COCHRANE
Deputy Attorney General
4 State Bar No. 185730
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2092
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9
10 **BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

11
12 In the Matter of the Accusation Against:

Case No. 10-2009-200762

13 **JUERGEN G. WINKLER, M.D.**
2204 El Camino Real, Suite 104
14 Oceanside, CA 92054

OAH No. 2011080162

15 **Physician's and Surgeon's Certificate**
16 **No. G67075,**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 Respondent.

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical
22 Board of California. She brought this action solely in her official capacity and is represented in
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Michael S.
24 Cochrane, Deputy Attorney General.

25 2. Respondent Juergen G. Winkler, M.D. (Respondent) is represented in this
26 proceeding by attorney Steven H. Zeigen, Esq., whose address is: Rosenberg, Sphall &
27 Associates, 750 "B" Street, Suite 3210, San Diego, CA 92101.

28 ///

3. On September 18, 1989, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. G67075 to respondent Juergen G. Winkler, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 10-2009-200762 and will expire on November 30, 2012, unless renewed.

JURISDICTION

4. On June 8, 2011, Accusation No. 10-2009-200762 was filed before the Board, and is currently pending against respondent. On June 8, 2011, a true and correct copy of Accusation No. 10-2009-200762 and all other statutorily required documents were properly served on respondent. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 10-2009-200762 is attached hereto as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 10-2009-200762. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order..

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation No. 10-2009-200762; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

///

///

1 **CULPABILITY**

2 8. Respondent does not contest that, at an administrative hearing, complainant
3 could establish a prima facie case with respect to the charges and allegations contained in
4 Accusation No. 10-2009-200762, and that he has thereby subjected his Physician's and Surgeon's
5 Certificate No. G67075 to disciplinary action.

6 9. Respondent further agrees that if he ever petitions for early termination or
7 modification of probation, or if an accusation and/or petition to revoke probation is filed against
8 him before the Medical Board of California, all of the charges and allegations contained in
9 Accusation No. 10-2009-200762 shall be deemed true, correct and fully admitted by respondent
10 for purposes of any such proceeding or any other licensing proceeding involving respondent in
11 the State of California or elsewhere.

12 10. Respondent understands that by signing this stipulation he agrees to be bound
13 by the Board's imposition of discipline as set forth in the Disciplinary Order below, without
14 further process.

15 **CONTINGENCY**

16 11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
17 submitted to the Board for its consideration in the above-entitled matter and, further, that the
18 Board shall have a reasonable period of time in which to consider and act on this Stipulated
19 Settlement and Disciplinary Order after receiving it.

20 12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
21 null and void and not binding upon the parties unless approved and adopted by the Board, except
22 for this paragraph, which shall remain in full force and effect. Respondent fully understands and
23 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and
24 Disciplinary Order, the Board may receive oral and written communications from its staff and/or
25 the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the
26 Board, any member thereof, and/or any other person from future participation in this or any other
27 matter affecting or involving respondent. In the event that the Board, in its discretion, does not
28 approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this

1 paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall
2 not be relied upon or introduced in any disciplinary action by either party hereto. Respondent
3 further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for
4 any reason, respondent will assert no claim that the Board, or any member thereof, was
5 prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and
6 Disciplinary Order or of any matter or matters related hereto.

7 ADDITIONAL PROVISIONS

8 13. This Stipulated Settlement and Disciplinary Order is intended by the parties
9 herein to be an integrated writing representing the complete, final and exclusive embodiment of
10 the agreements of the parties in the above-entitled matter.

11 14. The parties agree that facsimile copies of this Stipulated Settlement and
12 Disciplinary Order, including facsimile signatures of the parties, may be used in lieu of original
13 documents and signatures and, further, that facsimile copies shall have the same force and effect
14 as originals.

15 15. In consideration of the foregoing admissions and stipulations, the parties agree
16 the Board may, without further notice to or opportunity to be heard by respondent, issue and enter
17 the following Disciplinary Order:

18 16. In consideration of the foregoing admissions and stipulations, the parties agree
19 the Executive Director of the Medical Board may, without further notice to or opportunity to be
20 heard by respondent, issue and enter the following Disciplinary Order on behalf of the Board:

21 DISCIPLINARY ORDER

22 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G67075
23 issued to respondent Juergen G. Winkler, M.D. (Respondent) is revoked. However, the
24 revocation is stayed and respondent is placed on probation for three (3) years from the effective
25 date of this Decision on the following terms and conditions.

26 1. MEDICAL RECORD KEEPING COURSE.

27 Within 60 calendar days of the effective date of this Decision, respondent shall enroll
28 in a course in medical record keeping equivalent to the Medical Record Keeping Course offered

1 by the Physician Assessment and Clinical Education Program, University of California, San
2 Diego School of Medicine (Program), approved in advance by the Board or its designee.
3 Respondent shall provide the program with any information and documents that the Program may
4 deem pertinent. Respondent shall participate in and successfully complete the classroom
5 component of the course not later than six (6) months after respondent's initial enrollment.
6 Respondent shall successfully complete any other component of the course within one (1) year of
7 enrollment. The medical record keeping course shall be at respondent's expense and shall be in
8 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

9 A medical record keeping course taken after the acts that gave rise to the charges in
10 Accusation No. 10-2009-200762, but prior to the effective date of the Decision may, in the sole
11 discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the
12 course would have been approved by the Board or its designee had the course been taken after the
13 effective date of this Decision.

14 Respondent shall submit a certification of successful completion to the Board or its
15 designee not later than 15 calendar days after successfully completing the course, or not later than
16 15 calendar days after the effective date of the Decision, whichever is later.

17 **2. PROFESSIONALISM PROGRAM (ETHICS COURSE)**

18 Within 60 calendar days of the effective date of this Decision, respondent shall enroll
19 in a professionalism program, that meets the requirements of Title 16, California Code of
20 Regulations, section 1358. Respondent shall participate in and successfully complete that
21 program. Respondent shall provide any information and documents that the program may deem
22 pertinent. Respondent shall successfully complete the classroom component of the program not
23 later than six (6) months after respondent's initial enrollment, and the longitudinal component of
24 the program not later than the time specified by the program, but no later than one (1) year after
25 attending the classroom component. The professionalism program shall be at respondent's
26 expense and shall be in addition to the Continuing Medical Education (CME) requirements for
27 renewal of licensure.

28 ///

1 A professionalism program taken after the acts that gave rise to the charges in
2 Accusation No. 10-2009-200762, but prior to the effective date of the Decision may, in the sole
3 discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the
4 program would have been approved by the Board or its designee had the program been taken after
5 the effective date of this Decision.

6 Respondent shall submit a certification of successful completion to the Board or its
7 designee not later than 15 calendar days after successfully completing the program or not later
8 than 15 calendar days after the effective date of the Decision, whichever is later.

9 **3. CLINICAL TRAINING PROGRAM**

10 Within 60 calendar days of the effective date of this Decision, respondent shall enroll
11 in a clinical training or educational program equivalent to the Physician Assessment and Clinical
12 Education Program (PACE) offered at the University of California - San Diego School of
13 Medicine ("Program"). Respondent shall successfully complete the Program not later than six (6)
14 months after respondent's initial enrollment unless the Board or its designee agrees in writing to
15 an extension of that time.

16 The Program shall consist of a Comprehensive Assessment program comprised of a
17 two-day assessment of respondent's physical and mental health; basic clinical and communication
18 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to
19 respondent's area of practice in which respondent was alleged to be deficient, and at minimum, a
20 40-hour program of clinical education in the area of practice in which respondent was alleged to
21 be deficient and which takes into account data obtained from the assessment, Decision,
22 Accusation, and any other information that the Board or its designee deems relevant. Respondent
23 shall pay all expenses associated with the clinical training program.

24 Based on respondent's performance and test results in the assessment and clinical
25 education, the Program will advise the Board or its designee of its recommendation(s) for the
26 scope and length of any additional educational or clinical training, treatment for any medical
27 condition, treatment for any psychological condition, or anything else affecting respondent's
28 practice of medicine. Respondent shall comply with Program recommendations.

1 At the completion of any additional educational or clinical training, respondent shall
2 submit to and pass an examination. Determination as to whether respondent successfully
3 completed the examination or successfully completed the program is solely within the program's
4 jurisdiction.

5 If respondent fails to enroll, participate in, or successfully complete the clinical
6 training program within the designated time period, respondent shall receive a notification from
7 the Board or its designee to cease the practice of medicine within three (3) calendar days after
8 being so notified. The respondent shall not resume the practice of medicine until enrollment or
9 participation in the outstanding portions of the clinical training program have been completed. If
10 the respondent did not successfully complete the clinical training program, the respondent shall
11 not resume the practice of medicine until a final decision has been rendered on the accusation
12 and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of
13 the probationary time period.

14 4. **PROHIBITED PRACTICE**

15 During probation, respondent is prohibited from making and disseminating, or
16 causing to be made or disseminated, any false or misleading statements, whether oral or written,
17 to patients or potential patients, regarding insulin potentiation therapy (IPT). This prohibition
18 includes, but is not limited to, all of the false and/or misleading advertising described in the
19 Fourth Cause for Discipline in Accusation No. 10-2009-200762 and any false or misleading
20 statements made in any advertising, website operated by respondent or on respondent's behalf,
21 verbal informed consent, or written informed consent document, blog, or informational materials
22 distributed by respondent.

23 5. **NOTIFICATION**

24 Within seven (7) days of the effective date of this Decision, the respondent shall
25 provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive
26 Officer at every hospital where privileges or membership are extended to respondent, at any other
27 facility where respondent engages in the practice of medicine, including all physician and locum
28 tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance

1 carrier which extends malpractice insurance coverage to respondent. Respondent shall submit
2 proof of compliance to the Board or its designee within 15 calendar days.

3 This condition shall apply to any change(s) in hospitals, other facilities or insurance
4 carrier.

5 **6. SUPERVISION OF PHYSICIAN ASSISTANTS**

6 During probation, respondent is prohibited from supervising physician assistants.

7 **7. OBEY ALL LAWS**

8 Respondent shall obey all federal, state and local laws, all rules governing the
9 practice of medicine in California and remain in full compliance with any court ordered criminal
10 probation, payments, and other orders.

11 **8. QUARTERLY DECLARATIONS**

12 Respondent shall submit quarterly declarations under penalty of perjury on forms
13 provided by the Board, stating whether there has been compliance with all the conditions of
14 probation.

15 Respondent shall submit quarterly declarations not later than 10 calendar days after
16 the end of the preceding quarter.

17 **9. COMPLIANCE WITH PROBATION UNIT**

18 Respondent shall comply with the Board's probation unit and all terms and conditions
19 of this Decision.

20 **10. ADDRESS CHANGES**

21 Respondent shall, at all times, keep the Board informed of respondent's business and
22 residence addresses, email address (if available), and telephone number. Changes of such
23 addresses shall be immediately communicated in writing to the Board or its designee. Under no
24 circumstances shall a post office box serve as an address of record, except as allowed by Business
25 and Professions Code section 2021, subdivision (b).

26 ///

27 ///

28 ///

1 **11. PLACE OF PRACTICE**

2 Respondent shall not engage in the practice of medicine in respondent's or patient's
3 place of residence, unless the patient resides in a skilled nursing facility or other similar licensed
4 facility.

5 **12. LICENSE RENEWAL**

6 Respondent shall maintain a current and renewed California physician's and
7 surgeon's license.

8 **13. TRAVEL OR RESIDENCE OUTSIDE CALIFORNIA**

9 Respondent shall immediately inform the Board or its designee, in writing, of travel
10 to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more
11 than thirty (30) calendar days.

12 In the event respondent should leave the State of California to reside or to practice,
13 respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
14 departure and return.

15 **14. INTERVIEW WITH THE BOARD OR ITS DESIGNEE**

16 Respondent shall be available in person upon request for interviews either at
17 respondent's place of business or at the probation unit office, with or without prior notice
18 throughout the term of probation.

19 **15. NON-PRACTICE WHILE ON PROBATION**

20 Respondent shall notify the Board or its designee in writing within 15 calendar days
21 of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of
22 respondent's return to practice. Non-practice is defined as any period of time respondent is not
23 practicing medicine in California as defined in Business and Professions Code sections 2051 and
24 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching,
25 or other activity as approved by the Board. All time spent in an intensive training program which
26 has been approved by the Board or its designee shall not be considered non-practice. Practicing
27 medicine in another state of the United States or Federal jurisdiction while on probation with the
28

1 medical licensing authority of that state or jurisdiction shall not be considered non-practice. A
2 Board-ordered suspension of practice shall not be considered as a period of non-practice.

3 In the event respondent's period of non-practice while on probation exceeds 18
4 calendar months, respondent shall successfully complete a clinical training program that meets
5 the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary
6 Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

7 Respondent's period of non-practice while on probation shall not exceed two (2)
8 years.

9 Periods of non-practice will not apply to the reduction of the probationary term.

10 Periods of non-practice will relieve respondent of the responsibility to comply with
11 the probationary terms and conditions with the exception of this condition and the following
12 terms and conditions of probation: Obey All Laws (Term 7, above); and General Probation
13 Requirements (Terms 9, 10, 11, 12, and 13, above).

14 16. COMPLETION OF PROBATION

15 Respondent shall comply with all financial obligations (e.g., restitution, probation
16 costs) not later than 120 calendar days prior to the completion of probation. Upon successful
17 completion of probation, respondent's certificate shall be fully restored.

18 17. VIOLATION OF PROBATION

19 Failure to fully comply with any term or condition of probation is a violation of
20 probation. If respondent violates probation in any respect, the Board, after giving respondent
21 notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order
22 that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension
23 Order is filed against respondent during probation, the Board shall have continuing jurisdiction
24 until the matter is final, and the period of probation shall be extended until the matter is final.

25 18. LICENSE SURRENDER

26 Following the effective date of this Decision, if respondent ceases practicing due to
27 retirement or health reasons or is otherwise unable to satisfy the terms and conditions of
28 probation, respondent may request to surrender his or her license. The Board reserves the right to

1 evaluate respondent's request and to exercise its discretion in determining whether or not to grant
2 the request, or to take any other action deemed appropriate and reasonable under the
3 circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar
4 days deliver respondent's wallet and wall certificate to the Board or its designee and respondent
5 shall no longer practice medicine. Respondent will no longer be subject to the terms and
6 conditions of probation. If respondent re-applies for a medical license, the application shall be
7 treated as a petition for reinstatement of a revoked certificate.

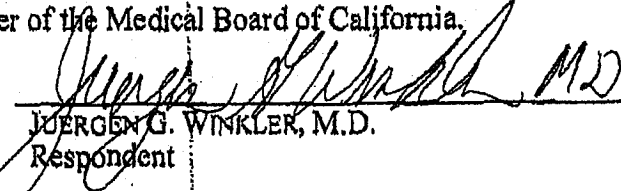
8 **19. PROBATION MONITORING COSTS**

9 Respondent shall pay the costs associated with probation monitoring each and every
10 year of probation, as designated by the Board, which may be adjusted on an annual basis. Such
11 costs shall be payable to the Medical Board of California and delivered to the Board or its
12 designee no later than January 31 of each calendar year.

13 **ACCEPTANCE**

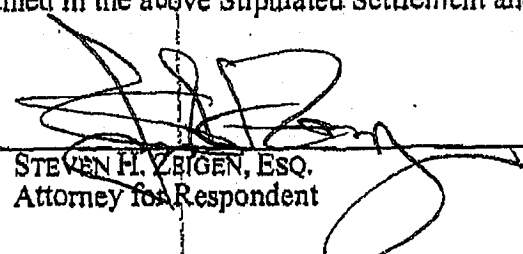
14 I have carefully read the above Stipulated Settlement and Disciplinary Order and have
15 fully discussed it with my attorney, Steven H. Zeigen, Esq. I understand the stipulation and the
16 effect it will have on my Physician's and Surgeon's Certificate No. G67075. I enter into this
17 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
18 to be bound by the Decision and Order of the Medical Board of California.

19 DATED: 5/11/12


JUERGEN G. WINKLER, M.D.
Respondent

21 I have read and fully discussed with respondent Juergen G. Winkler, M.D., the terms
22 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
23 Order. I approve its form and content.

24 DATED: 5/10/12


STEVEN H. ZEIGEN, ESQ.
Attorney for Respondent

26 ///

27 ///

28 ///

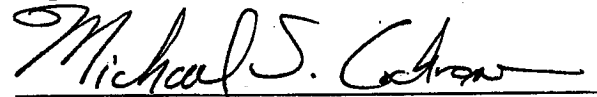
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 05/14/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General



MICHAEL S. COCHRANE
Deputy Attorney General
Attorneys for Complainant

SD2011800461
70563699.doc

Exhibit A

Accusation No. 10-2009-200762

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 DAVID P. CHAN
Deputy Attorney General
4 State Bar No. 159343
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2600
7 Facsimile: (619) 645-2061
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 8, 2011
BY: [Signature] ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 10-2009-200762

13 **JUERGEN G. WINKLER, M.D.**
2204 El Camino Real, Suite 104
14 Oceanside, CA 92054

ACCUSATION

15 **Physician's and Surgeon's Certificate No.**
16 **G67075**

Respondent.

18 Complainant alleges:

19 PARTIES

20 1. Linda K. Whitney (hereinafter "Complainant") brings this Accusation solely in
21 her official capacity as the Executive Director of the Medical Board of California, Department of
22 Consumer Affairs.

23 2. On or about September 18, 1989, the Medical Board of California issued
24 Physician's and Surgeon's Certificate Number G67075 to Juergen G. Winkler, M.D. (hereinafter
25 "Respondent"). The Physician's and Surgeon's Certificate was in full force and effect at all times
26 relevant to the charges brought herein and will expire on November 30, 2012, unless renewed.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRIOR DISCIPLINARY ACTION

3. On June 8, 2000, in a disciplinary action entitled "In the Matter of Accusation Against Juergen Winkler, M.D.," Case No. 10-1998-91390, the Medical Board of California, issued an order in which respondent, Physician's and Surgeon's Certificate No. G67075, was publicly reprimanded and he was ordered to successfully complete a course in medical record keeping.

JURISDICTION

4. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Division deems proper.

6. Section 2234 of the Code states:

"The Division of Medical Quality¹ shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical Practice Act].

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct

¹ California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act (Cal. Bus. & Prof. Code, §§2000, et. seq.) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

1 departure from the applicable standard of care shall constitute repeated negligent acts.

2 “(1) An initial negligent diagnosis followed by an act or omission medically
3 appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

4 “(2) When the standard of care requires a change in the diagnosis, act, or omission
5 that constitutes the negligent act described in paragraph (1), including, but not limited to, a
6 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs
7 from the applicable standard of care, each departure constitutes a separate and distinct
8 breach of the standard of care.

9 “...

10 “(e) The commission of any act involving dishonesty or corruption which is
11 substantially related to the qualifications, functions, or duties of a physician and surgeon.

12 “(f) Any action or conduct which would have warranted the denial of a certificate.

13 “...”

14 7. Section 2266 of the Code states: “The failure of a physician and surgeon to
15 maintain adequate and accurate records relating to the provision of services to their patients
16 constitutes unprofessional conduct.”

17 8. Section of the Code 2271 states:

18 “Any advertising in violation of Section 17500, relating to false or misleading
19 advertising, constitutes unprofessional conduct.”

20 9. Section of the Code 17500 states:

21 “It is unlawful for any person, firm, corporation or association, or any employee
22 thereof with intent directly or indirectly to dispose of real or personal property or to perform
23 services, professional or otherwise, or anything of any nature whatsoever or to induce the public
24 to enter into any obligation relating thereto, to make or disseminate or cause to be made or
25 disseminated before the public in this state, or to make or disseminate or cause to be made or
26 disseminated from this state before the public in any state, in any newspaper or other publication,
27 or any advertising device, or by public outcry or proclamation, or in any other manner or means
28 whatever, including over the Internet, any statement, concerning that real or personal property or

1 those services, professional or otherwise, or concerning any circumstance or matter of fact
2 connected with the proposed performance or disposition thereof, which is untrue or misleading,
3 and which is known, or which by the exercise of reasonable care should be known, to be untrue or
4 misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so
5 made or disseminated any such statement as part of a plan or scheme with the intent not to sell
6 that personal property or those services, professional or otherwise, so advertised at the price
7 stated therein, or as so advertised. Any violation of the provisions of this section is a
8 misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a
9 fine not exceeding two thousand five hundred dollars (\$2,500), or by both that imprisonment and
10 fine."

11 10. Unprofessional conduct under California Business and Professions Code section
12 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct
13 which is unbecoming to a member in good standing of the medical profession, and which
14 demonstrates an unfitness to practice medicine.²

15 **FIRST CAUSE FOR DISCIPLINE**

16 (Gross Negligence)

17 11. Respondent is subject to disciplinary action under sections 2227 and 2234, as
18 defined by section 2234, subdivision (b), of the Code, in that respondent was grossly negligent in
19 his care and treatment of patients J.J., J.C., J.K., W.P., and R.F., as more particularly alleged
20 hereinafter:

21 12. At all times relevant herein, respondent specialized in providing Insulin
22 Potentiation Therapy (IPT), a form of low dose chemotherapy. On his website, respondent
23 references a "Kinder & Gentler Chemotherapy" and describes IPT as follows:

24 "Insulin Potentiation Therapy is a protocol for administering traditional
25 chemotherapeutic drugs using Insulin to transport the chemotherapeutic drugs across the
26 cell membrane into the cancer cells. A much lower dose of the highly toxic drugs is

27
28 ² *Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.

1 required, because IPT treatment targets only the cancer cells. sparing the good cells. The
2 cancer cells get the chemotherapeutic drugs, not the normal cells. Therefore, the patient
3 does not suffer the severe side effects so common with conventional chemotherapy – no
4 hair loss, vomiting, or fevers. The quality of life remains high during treatment.”

5 **Patient J.J.**

6 A. In or about early 2002, patient J.J. then a 56 year old male, was diagnosed with
7 Grade I follicular lymphoma³ for which he received treatment consisting of “enzymes” from
8 an alternative medicine practitioner in Texas. Patient J.J. subsequently moved to California
9 and was seen by an oncologist in Glendale who evaluated him and elected “watchful
10 waiting” without any treatment. In or about 2006, patient J.J. developed a right testicular
11 mass which was not malignant, and several months later, developed a right inguinal mass.
12 In or about early 2007, patient J.J. underwent an excision of the right inguinal mass and
13 other nodes in the right inguinal region. The mass and nodes were tested and determined to
14 be Grade II follicular lymphoma. On or about July 2, 2008, a PET⁴ scan showed significant
15 progression of patient J.J.’s disease when compared to the previous PET scan that was done
16 in or about April, 2008. Conventional treatment was scheduled for patient J.J., however, he
17 never presented for the scheduled treatment but, instead, sought the services of respondent.

18 B. On or about September 8, 2008, patient J.J. presented to respondent for
19 consultation and possible treatment. Laboratory tests were ordered and patient J.J. was
20 given supplements.

21 C. On or about November 3, 2009, patient J.J. began receiving Insulin Potentiation
22 Therapy/Low Dose Chemotherapy (IPT/LDC) from respondent. Patient J.J.’s treatment
23 consisted of the following chemotherapy drugs: Adriamycin,⁵ 10 mg.; Vincristine,⁶ 0.5 mg

24 ³ Follicular lymphoma is a common type of non-Hodgkin Lymphoma. It is a slow-
25 growing lymphoma that arises from B-cells, a type of white blood cell.

26 ⁴ A positron emission tomography (PET) scan is an imaging test that uses a radioactive
substance (called a tracer) to look for disease in the body.

27 ⁵ Adriamycin (Doxorubicin) is an antineoplastic antibiotic. It works by killing cancer
28 cells.

1 to 1.0 mg; Cyclophosphamide.⁷ 12.5 mg; and Methotrexate.⁸ 50 mg. and continued until on
2 or about April 29, 2009, at intervals varying from 3 to 7 days: Before the chemotherapy,
3 patient J.J. received Kutapressin (an amino acid complex derived from bovine liver) and
4 insulin. The insulin dose ranged from 15 and 32 units. In addition, patient J.J. was given
5 vitamins, calcium, zinc and magnesium before chemotherapy. Patient J.J. received
6 approximately 29 sessions of IPT/LDC over a 6-month period.

7 D. On or about May 31, 2009, patient J.J. was seen by Dr. F.R., an oncologist, who
8 noted that patient J.J. had an initial response to the therapy, but minimal improvement was
9 noted in the most recent PET scan done on or about April 29, 2009. On or about June 10,
10 2009, Dr. F.R. placed patient J.J. on the standard conventional chemotherapy regimen of
11 Rituxan,⁹ 375 mg.; Cyclophosphamide 750 mg; Doxyrubicin (Adriamycin) 50 mg;
12 Vincristine 1.4 mg; and Prednisone¹⁰ 100 mg.

13 E. On or about July 27, 2009, patient J.J. underwent a follow up PET scan which
14 showed "normal PET scan with no evidence of focal areas of increased activity."

15 **Patient J.C.**

16 F. On or about December 4, 2007, patient J.C., then a 64 year old female, was
17 diagnosed with infiltrating ductal carcinoma of the left breast. The estrogen receptors were
18 positive, progesterone receptors were negative and so was the Her2Neu.¹¹

19 ⁶ Vincristine is in a class of drugs known as vinca alkaloids. It slows or stops the growth
20 of cancer cells in the body.

21 ⁷ Cyclophosphamide (Cytoxan) is in a class of drugs known as alkylating agents; it slows
22 or stops the growth of cancer cells in the body.

23 ⁸ Methotrexate interferes with the growth of certain cells of the body, especially cells that
24 reproduce quickly, such as cancer cells, bone marrow cells, and skin cells. It is used treat certain
25 types of cancer of the breast, skin, head and neck, or lung. It is also used to treat severe psoriasis
26 and rheumatoid arthritis.

27 ⁹ Rituxan (rituximab) is a cancer medication that interferes with the growth of cancer cells
28 and slows their growth and spread in the body.

¹⁰ Prednisone is in a class of drugs called corticosteroids. Prednisone prevents the release
of substances in the body that cause inflammation.

¹¹ Her2Neu is the acronym for human epidermal growth factor receptor 2. Knowing the
(continued...)

1 G. On or about December 13, 2007, patient J.C. underwent a lumpectomy¹² of the
2 left breast with axillary lymph node biopsy. The pathology of the left breast showed
3 infiltrating ductal carcinoma, 4.7 cm in size, with lymphovascular invasion. The pathology
4 of the nodal specimen showed metastatic mammary carcinoma in two of two nodes without
5 capsular invasion. A PET scan taken on or about January 3, 2008, showed mild increased
6 uptake within the lateral left breast. Her estrogen receptors were positive, progesterone
7 receptors were negative and the Her2Neu was over expressed (amplified).

8 H. On or about February 18, 2008, patient J.C. was seen by respondent for
9 consultation and possible neoadjuvant¹³ chemotherapy treatment. On or about February 25,
10 2008, patient J.C. started IPT/LDC treatment with respondent. Patient J.C. received
11 approximately seven weekly treatment sessions which ended on or about April 7, 2008.
12 Approximately two of the seven treatment sessions were administered by respondent, and
13 five of the treatments were administered by Dr. L. B., respondent's partner.

14 I. The chemotherapeutic agents used by respondent and his partner in treating
15 patient J.C. were Adriamycin, 10 mg.; Taxol,¹⁴ 30 mg.; Methotrexate, 50 mg.; Cytosan, 125
16 mg.; and Carboplatin,¹⁵ 50 mg. Before chemotherapy patient J.C. was given insulin, in
17 addition to vitamins and minerals. The dose of insulin ranged from 21 and 22 units.

18 J. On or about April 7, 2008, a PET scan of patient J.C. showed a single new
19 hypermetabolic left axillary node consistent with malignancy. On or about July 15, 2008, a
20 CT scan of patient J.C.'s chest, abdomen, and pelvis showed a 27 mm left axillary lymph

21 Her2Neu status is an important part of the diagnosis.

22 ¹² Lumpectomy is a surgical procedure that involves removing a suspected malignant
23 (cancerous) tumor, or lump, and a small portion of the surrounding tissue from a woman's breast.

24 ¹³ The administration of therapeutic agents before the main treatment of definitive surgery.

25 ¹⁴ Taxol is a cancer medication that interferes with the growth of cancer cells and slows
26 their growth and spread in the body. It is used to treat breast cancer, lung cancer, and ovarian
cancer.

27 ¹⁵ Carboplatin is in a class of drugs known as platinum-containing compounds; it slows or
28 stops the growth of cancer cells in the body.

1 node consistent with recurrent neoplasm and a 12 mm stellate density at the right lower lobe
2 of undetermined significance.

3 K. On or about May 5, 2008, patient J.C.'s husband sent Dr. L.B. a letter stating
4 that they were having trouble with reimbursement from their insurance carrier and that
5 patient J.C. was receiving treatment somewhere else.

6 **Patient J.K.**

7 L. On or about May 3, 2007, patient J.K., then a 54 year old female chiropractor,
8 was diagnosed by a core biopsy with invasive ductal carcinoma of the left breast. On or
9 about June 5, 2007, a biopsy of a sentinel left axillary lymph node revealed metastasis. Her
10 estrogen and progesterone receptors were positive and Her2Neu was 2+.

11 M. On or about June 14, 2007, patient J.K. was seen by respondent for consultation
12 and possible treatment, and she begun IPT/LDC treatment on that day.

13 N. Between on or about June 14, 2007 and November 13, 2007, patient J.K.
14 received approximately eighteen IPT/LDC treatment sessions. The chemotherapeutic
15 agents used by respondent in treating patient J.K. during this time were as follows: 5-FU,¹⁶
16 100 mg.; Adriamycin, 10 mg.; Cytosan, 125 mg.; and Taxol, 30 mg. Before chemotherapy
17 patient J.K. was given insulin, in addition to various vitamins and minerals. The dose of
18 insulin ranged from 13 and 20 units. The treatment sessions continued twice a week for 2
19 weeks then weekly for eleven sessions, one 10 day break followed by twice weekly during
20 one week, then one last treatment 3 weeks later. Additionally, patient J.K. received
21 Diflucan and Flagyl for presumptive infections on sessions seven through fifteen. Patient
22 J.K. remained so fatigued during her treatment course that she was unable to maintain
23 regular hours at her chiropractic practice.

24 O. On or about September 15, 2008, patient J.K. underwent a PET scan which
25 showed interval development of a focal area of increased uptake in the upper outer quadrant

26
27 ¹⁶ 5-FU (Fluorouracil) belongs to a group of drugs known as antimetabolites. It resembles
28 a normal cell nutrient needed by cancer cells to grow. The cancer cells take up fluorouracil,
which then interferes with their growth.

1 of the left breast. On or about September 22, 2008, a core biopsy of a mass in patient J.K.'s
2 left breast showed a recurrence of her invasive ductal carcinoma. Both estrogen and
3 progesterone receptors were positive and Her2Neu was negative.

4 P. On or about September 26, 2008 patient J.K. again started with the IPT/LDC
5 treatments and continued until on or about January 2, 2009, ranging from 3 days to a couple
6 of weeks intervals. The chemotherapeutic agents used in treating patient J.K. were as
7 follows: 5-FU, 100-125 mg.; Adriamycin, 10 mg.; Cytosan, 100-125 mg.; Taxol, 30 mg.;
8 Methotrexate, 50-75 mg.; and Carboplatin 50 mg. Before chemotherapy patient J.K. was
9 given insulin, in addition to various vitamins and minerals. The dose of insulin ranged from
10 14 and 17 units.

11 **Patient W.P.**

12 Q. In or about January, 2008, patient W.P., then a 73 year old male, was diagnosed
13 with inoperable Stage IV gastric adenocarcinoma. Patient W.P. subsequently received
14 chemotherapy and radiation therapy, and was evaluated by a surgeon at UCLA who
15 determined he was not a candidate for surgery. In or about August, 2008, patient W.P.
16 underwent a PET scan which revealed persistent metabolic activity at the gastroesophageal
17 junction consistent with malignancy, new lung lesions, and new retroperitoneal lymph node.
18 On or about September 15, 2008, patient W.P. underwent an endoscopy that showed
19 inflammation in one area near the gastroesophageal junction that indicated a high grade
20 dysplasia suspicious for deeper residual malignancy.

21 R. On or about September 5, 2008, patient W.P. was seen by respondent in
22 consultation. On or about September 23, 2008, patient W.P. received his first IPT/LDC
23 treatment. Between on or about September 23, 2008 and April 27, 2009, patient W.P.
24 received approximately twenty one IPT/LDC treatment sessions at various intervals ranging
25 from 3 days to a few weeks.

26 S. The chemotherapeutic agents used by respondent in treating patient W.P. and
27 given in various combinations (at times doses are not mentioned) were as follows:
28

1 Adriamycin; Taxotere.¹⁷ 5 mg.; Oxaliplatin:¹⁸ 5-FU. 100 mg.; Epirubicin:¹⁹ Irinotecan.²⁰ 40
2 mg.; Carboplatin, 50 mg.; Mitomycin,²¹ 2.5-80 mg.; Cisplatin, 15-50 mg.; Topotecan,²²
3 Alimta,²³ 50 mg.; Methotrexate, 50 mg.; Erbitux,²⁴ 35 mg.; and Taxol, 30 mg. Before
4 chemotherapy, patient W.P. was given insulin ranging from 35 to 38 units, in addition to
5 vitamins and minerals.

6 T. On or about May 12, 2009, patient W.P. underwent a CT scan of the chest
7 which showed an 8 mm nodule in the right lower lobe. On May 13, 2009, a PET scan
8 showed moderate size hypermetabolic mass in the proximal stomach extending to the
9 esophagealgastric junction which was consistent with his primary gastric neoplasm. Patient
10 W.P. died on or about October 1, 2009.

11 **Patient R.F.**

12 U. In or about May, 2006, patient R.F., then a 42 year old female, was diagnosed
13 with high-grade infiltrating ductal carcinoma of the right breast, and underwent a right
14 modified radical mastectomy. Her marker status was negative for all three prognostic
15 markers: estrogen, progesterone, and Her2Neu, indicating a poor prognosis and limiting her

16
17 ¹⁷ Taxotere (docetaxel) is a cancer medication that interferes with the growth and spread
of cancer cells in the body.

18 ¹⁸ Oxaliplatin belongs to the group of medicines called antineoplastics. Oxaliplatin
19 interferes with the growth of cancer cells, which are eventually destroyed.

20 ¹⁹ Epirubicin is in a class of drugs known as anthracyclines. It slows or stops the growth
of cancer cells in the body.

21 ²⁰ Irinotecan is a cancer medication that interferes with the growth and spread of cancer
22 cells in the body.

23 ²¹ Mitomycin is an anti-cancer chemotherapy drug. It is classified as an antitumor
antibiotic.

24 ²² Topotecan is a cancer medication that interferes with the growth and spread of cancer
25 cells in the body.

26 ²³ Alimta (pemetrexed) is a cancer medication that interferes with the growth of cancer
cells and slows their growth and spread in the body.

27 ²⁴ Erbitux is a cancer medication that interferes with the growth of cancer cells and slows
28 their growth and spread in the body. Erbitux is used to treat cancers of the colon and rectum.

1 potentially successful treatment options. She received four cycles of Adriamycin and
2 Cytoxan chemotherapy and was thought to be in remission which lasted several months. In
3 or about early 2007, patient R.F. developed a right axillary mass and received a second
4 course of chemotherapy, followed by surgical axillary lymph node dissection.

5 V. In or about July, 2008, patient R.F. was noted to have a large loculated mass in
6 the right hemithorax with sternal destruction and extension to the mediastinum along with
7 pulmonary metastasis. In or about August, 2008, patient R.F. was noted to have mental
8 status changes, and after an evaluation, an MRI revealed severe metastases some in the left
9 cerebellum and in the left frontal-parietal region of the brain. On or about August 13, 2008,
10 patient R.F. underwent brain surgery to resect the brain lesion.

11 W. On or about August 18, 2008, patient R.F. was seen by respondent in
12 consultation and possible treatment. The chemotherapy regimen was discussed and patient
13 R.F. began IPT/LDC treatment on that day. Between on or about August 18, 2008 and
14 January 19, 2009, patient R.F. received approximately thirty one IPT/LDC treatment
15 sessions at various intervals ranging from 3 days to a couple of weeks.

16 X. The chemotherapeutic agents used by respondent in treating patient R.F. (at
17 times doses are not mentioned) were as follows: Adriamycin, 10 mg.; Taxol, 30 mg.;
18 Cytoxan; Carboplatin, 50 mg.; 5-FU, 100 mg.; Doxil,²⁵ 2 mg.; Vinorelbine,²⁶ 10 mg.;
19 Ifosfamide,²⁷ 200 mg.; Gemzar,²⁸ 200 mg.; Cisplatin, 15 mg.; and Irinotecan, 40 mg.
20 Before chemotherapy, patient R.F. was given insulin ranging from 20 to 21 units, in
21 addition to vitamins and minerals.

22 ²⁵ Doxil is an anti-cancer ("antineoplastic" or "cytotoxic") chemotherapy drug. It is the
23 drug doxorubicin encapsulated in a closed lipid sphere (liposome). Doxil is classified as an
"anthracycline antibiotic."

24 ²⁶ Vinorelbine belongs to the general group of medicines known as antineoplastics.

25 ²⁷ Ifosfamide belongs to the group of medicines called alkylating agents. It is used to treat
26 cancer of the testicles as well as some other kinds of cancer. Ifosfamide interferes with the
growth of cancer cells, which are eventually destroyed.

27 ²⁸ Gemzar is an anti-cancer ("antineoplastic" or "cytotoxic") chemotherapy drug. Gemzar
28 is classified as an antimetabolite.

1 Y. On or about January 29, 2009, patient R.F. engaged a new conventional
2 oncologist for considerable increased pain from her mediastinal chest wall mass since the
3 previous several weeks. On or about May 2, 2009, patient R.F. passed away.

4 13. Respondent committed gross negligence in his care and treatment of patients
5 J.J., J.C., J.K., W.P., and R.F. which included, but was not limited to, the following:

6 (a) Respondent's website is intentionally misleading regarding the potential
7 dangers associated with IPT/LDC because it suggests, incorrectly, that it is as effective, but
8 without the hazards, as conventional chemotherapeutic treatment for cancer.

9 (b) Respondent failed to include Rituximab in patient J.J.'s treatment regimen, and
10 his dosages and frequency for Adriamycin, Vincristine and Cyclophosphamide used in
11 treating patient J.J. were inappropriate.

12 (c) Respondent added Methotrexate to patient J.J.'s chemotherapeutic treatment
13 regimen which is not appropriate in the treatment of non-Hodgkin's lymphoma.

14 (d) Respondent failed to adequately document the dosages for Vincristine and
15 Cyclophosphamide that were given to patient J.J.

16 (e) Respondent failed to obtain a baseline physical examination as part of his initial
17 evaluation of patient J.J. prior to the IPT/LDC treatment.

18 (f) Respondent's dosages, frequency and combination for chemotherapeutic agents
19 used in treating patient J.C. were inappropriate.

20 (g) Respondent failed to obtain a baseline physical examination as part of his initial
21 evaluation of patient J.C. prior to initiating the IPT/LDC treatment.

22 (h) Respondent failed to adequately monitor patient J.C.'s blood glucose level
23 during approximately three of the seven IPT/LDC treatment sessions.

24 (i) Respondent used incorrect dosing, frequency, and combination of
25 chemotherapeutic agents in treating patient J.K.

26 (j) Respondent failed to sign or initial every handwritten note in the progress notes
27 regarding the treatment and care of patient J.K.

28 (k) Respondent failed to sign multiple treatment sheets for patient J.K.

1 (l) Respondent failed to adequately document the dosages of chemotherapeutic
2 agents used in multiple treatment sessions of patient J.K.

3 (m) Respondent failed to adequately monitor patient W.P.'s blood glucose level
4 during multiple IPT/LDC treatment sessions.

5 (n) Respondent failed to adequately document patient W.P.'s serial blood glucose
6 results, dosages of chemotherapeutic agents, the reasons for his choices and changes in
7 chemotherapeutic agents used in the treatment of patient W.P. Respondent failed to sign or
8 initial patient W.P.'s treatment sheets.

9 (o) Respondent failed to obtain a baseline physical examination as part of his initial
10 evaluation of patient W.P. prior to the IPT/LDC treatment.

11 (p) Respondent used incorrect dosing, frequency, and combination of
12 chemotherapeutic agents in treating patient R.F.

13 (q) Respondent failed to adequately document the dosages for the
14 chemotherapeutic agents used in several treatment sessions of patient R.F.

15 (r) Respondent failed to sign or initial hand-written notes regarding the treatment
16 of patient R.F.

17 (s) Respondent failed to accurately document the treatment, and drugs and/or
18 supplements given to patient R.F. during her treatment session on or about January 19,
19 2009.

20 (t) Respondent failed to adequately monitor patient R.F.'s blood glucose level
21 during multiple IPT/LDC treatment sessions.

22 (u) Respondent failed to communicate with patient R.F.'s other treating physicians,
23 and failed to adequately document information regarding other treatments she had received.

24 (v) Respondent failed to obtain a baseline physical examination as part of his initial
25 evaluation of patient R.F. prior to the IPT/LDC treatment.

26 ///

27 ///

28 ///

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

14. Respondent has further subjected his Physician's and Surgeon's Certificate No. G67075 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of patients J.J., J.C., J.K., W.P., and R.F., as more particularly alleged hereinafter:

15. Paragraphs 11, 12, and 13, above, are hereby incorporated by reference and re-alleged as if fully set forth herein.

16. Respondent committed repeated negligent acts in his care and treatment of patients J.J., J.C., J.K., W.P., and R.F. which included, by not limited to, the following:

(a) Respondent's website is intentionally misleading regarding the potential dangers associated with IPT/LDC because it suggests, incorrectly, that it is as effective, but without the hazards, as conventional chemotherapeutic treatment for cancer.

(b) Respondent failed to include Rituximab in patient J.J.'s treatment regimen, and his dosages and frequency for Adriamycin, Vincristine and Cyclophosphamide used in treating patient J.J. were inappropriate.

(c) Respondent added Methotrexate to patient J.J.'s chemotherapeutic treatment regimen which is not appropriate in the treatment of non-Hodgkin's lymphoma.

(d) Respondent failed to adequately document the dosages for Vincristine and Cyclophosphamide that were given to patient J.J.

(e) Respondent failed to obtain a baseline physical examination as part of his initial evaluation of patient J.J. prior to the IPT/LDC treatment.

(f) Respondent's dosages, frequency and combination for chemotherapeutic agents used in treating patient J.C. were inappropriate.

(g) Respondent failed to obtain a baseline physical examination as part of his initial evaluation of patient J.C. prior to initiating the IPT/LDC treatment.

(h) Respondent failed to adequately monitor patient J.C.'s blood glucose level during approximately three of the seven IPT/LDC treatment sessions.

1 (i) Respondent used incorrect dosing, frequency, and combination of
2 chemotherapeutic agents in treating patient J.K.

3 (j) Respondent failed to sign or initial every handwritten note in the progress notes
4 regarding the treatment and care of patient J.K.

5 (k) Respondent failed to sign multiple treatment sheets for patient J.K.

6 (l) Respondent failed to adequately document the dosages of chemotherapeutic
7 agents used in multiple treatment sessions of patient J.K.

8 (m) Respondent failed to adequately monitor patient W.P.'s blood glucose level
9 during multiple IPT/LDC treatment sessions.

10 (n) Respondent failed to adequately document patient W.P.'s serial blood glucose
11 results, dosages of chemotherapeutic agents, the reasons for his choices and changes in
12 chemotherapeutic agents used in the treatment of patient W.P. Respondent failed to sign or
13 initial patient W.P.'s treatment sheets.

14 (o) Respondent failed to obtain a baseline physical examination as part of his initial
15 evaluation of patient W.P. prior to the IPT/LDC treatment.

16 (p) Respondent used incorrect dosing, frequency, and combination of
17 chemotherapeutic agents in treating patient R.F.

18 (q) Respondent failed to adequately document the dosages for the
19 chemotherapeutic agents used in several treatment sessions of patient R.F.

20 (r) Respondent failed to sign or initial hand-written notes regarding the treatment
21 of patient R.F.

22 (s) Respondent failed to accurately document the treatment, and drugs and/or
23 supplements given to patient R.F. during her treatment session on or about January 19,
24 2009.

25 (t) Respondent failed to adequately monitor patient R.F.'s blood glucose level
26 during multiple IPT/LDC treatment sessions.

27 (u) Respondent failed to communicate with patient R.F.'s other treating physicians,
28 and failed to adequately document information regarding other treatments she had received.

1 (v) Respondent failed to obtain a baseline physical examination as part of his initial
2 evaluation of patient R.F. prior to the IPT/LDC treatment.

3 (w) Respondent failed to document the dosages for the chemotherapy agents used to
4 treat patient J.C. on or about February 25, 2008.

5 (x) Respondent failed to adequately document a history and physical examination,
6 and treatment status regarding patient J.K.

7 **THIRD CAUSE FOR DISCIPLINE**

8 (Failure to Maintain Adequate and Accurate Medical Records)

9 17. Respondent has further subjected his Physician's and Surgeon's Certificate No.
10 G 67075 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the
11 Code, in that respondent failed to maintain adequate and accurate records in regards to his care
12 and treatment of patients J.J., J.C., J.K., W.P., and R.F., as more particularly alleged hereinafter.

13 18. Paragraphs 11 through 16, above, are hereby incorporated by reference and
14 realleged as if fully set forth herein.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 (False and/or Misleading Advertising)

17 19. Respondent has further subjected his Physician's and Surgeon's Certificate No.
18 G67075 to disciplinary action under Code sections 2227 and 2234, as defined by Code section
19 2271 in that he disseminated false and/or misleading representations through his website, in
20 violation of section 17500 of the Code. The circumstances are set forth below.

21 20. Paragraphs 11 through 13, above, are hereby incorporated by reference as if
22 fully set forth herein.

23 A. Respondent's website, at all times relevant herein, stated that, "What cancers
24 respond to IPT? IPT treatment has been reported to work well for many different types of
25 cancers. There are also reports of IPT bringing responses and remissions to patients with
26 some very difficult cancers, even cancers in late stages." In fact, this representation is
27 untrue and/or misleading, lacks substantiation and is based solely on respondent's personal
28 experience rather than peer reviewed studies or other valid scientific analysis.

1 B. Respondent's website, at all times relevant herein, stated that, "Is IPT just as
2 effective as the chemotherapy my oncologist would prescribe? It does appear that the
3 percentages for remission and survival are at least as good as with conventional
4 chemotherapy, and probably much better." In fact, this representation is untrue and/or
5 misleading, lacks substantiation and is based solely on respondent's personal experience
6 rather than peer reviewed studies or other valid scientific analysis.

7 C. Respondent's website, at all times relevant herein, stated: "Are there any side
8 effects of IPT treatment? Almost none. There is certainly no hair loss, no going home to
9 shiver in bed for a day or two, and no severe vomiting. There is occasional constipation,
10 which is easily controlled by simple medications. Some nausea is occasionally encountered
11 for a few hours after the first couple of treatments, but this is also easily managed." In fact,
12 this representation is untrue and/or misleading, lacks substantiation and is also inconsistent
13 with respondent's own observations including his observation of patient J.K. who remained
14 so fatigued during her treatment course that she was unable to maintain regular hours at her
15 chiropractic practice.

16 D. Respondent's website, at all time relevant herein, stated: "As compared to
17 conventional chemotherapy, there are no severe and debilitating side effects. The patient
18 can easily continue with normal daily activities, enjoying a high quality of life while
19 avoiding severe vomiting, hair loss, or fevers." In fact, this representation is untrue or
20 misleading, lacks substantiation and is also inconsistent with respondent's own observations
21 including his observation of patient J.K. who remained so fatigued during her treatment
22 course that she was unable to maintain regular hours at her chiropractic practice.

23 E. Respondent's website, at all times relevant herein, stated: "Are there any
24 dangers in IPT treatment? Unlike with conventional chemotherapy, there have been no
25 reported deaths as a result of IPT. In brief, there is no danger. The worst side effect
26 encountered is easily managed constipation. Unlike conventional chemotherapy, anemia
27 and decreased platelet counts are unusual and usually not so severe as to require
28 transfusions." In fact, this representation is untrue or misleading, lacks substantiation, is

1 purportedly based on respondent's personal experience rather than peer reviewed studies or
2 other valid scientific analysis, and is also inconsistent with respondent's own observations
3 at his practice.

4 F. Respondent's website, at all times relevant herein, stated: "Treatment costs are
5 significantly less than standard chemotherapy, and most insurance carriers do pay a
6 significant portion of the fees." In fact, this representation is untrue or misleading, lacks
7 substantiation and is also inconsistent with respondent's own observations including his
8 observation of patient J.C. who had to seek treatment somewhere else because she was
9 having trouble with reimbursement from her insurance carrier.

10 G. Respondent's website, at all times relevant herein, generally misrepresented the
11 benefits and dangers of his treatment.

12 H. Respondent's website, at all times relevant herein, contained material
13 representations that were represented as fact even though they were not based on fact.

14 **SIXTH CAUSE FOR DISCIPLINE**

15 (Dishonesty or Corruption)

16 21. Respondent is further subject to disciplinary action under sections 2227 and
17 2234, as defined by section 2234, subdivision (e), of the Code, in that respondent committed an
18 act or acts of dishonesty or corruption, as more particularly described hereinafter:

19 22. Paragraphs 19 and 20, above, which are hereby incorporated by reference as if
20 fully set forth herein.

21 **SEVENTH CAUSE FOR DISCIPLINE**

22 (General Unprofessional Conduct)

23 23. Respondent has further subjected his Physician's and Surgeon's Certificate No.
24 G67075 to disciplinary action under sections 2227 and 2234 of the Code in that he has engaged in
25 conduct which breaches the rules or ethical code of the medical profession, or conduct which is
26 unbecoming to a member in good standing of the medical profession, and which demonstrates an
27 unfitness to practice medicine, as more particularly described hereinafter:

28 24. Paragraphs 19 and 20, above, which are hereby incorporated by reference as if

1 fully set forth herein.

2 **DISCIPLINE CONSIDERATIONS**

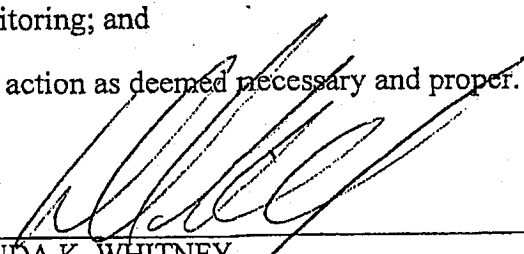
3 25. To determine the degree of discipline, if any, to be imposed on respondent,
4 Complainant alleges that on or about June 8, 2000, in a prior disciplinary action entitled "In the
5 Matter of the Accusation Against Juergen Winkler, M.D." before the Medical Board of
6 California, in Case No. 10-1998-91390, respondent, Physician's and Surgeon's Certificate No.
7 G67075, was publicly reprimanded for allegations of aiding and abetting unlicensed practice and
8 failure to maintain adequate and accurate medical records. Respondent was ordered to
9 successfully complete a course in medical record keeping. That decision is now final and is
10 incorporated by reference as if fully set forth herein.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein
13 alleged, and that following the hearing, the Medical Board of California issue a decision:

- 14 1. Revoking or suspending Physician's and Surgeon's Certificate Number
15 G67075, heretofore issued to respondent JUERGEN G. WINKLER, M.D.;
- 16 2. Revoking, suspending or denying approval of respondent JUERGEN G.
17 WINKLER, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the
18 Code;
- 19 3. Ordering respondent JUERGEN G. WINKLER, M.D. to pay the Board, if
20 placed on probation, the costs of probation monitoring; and
- 21 4. Taking such other and further action as deemed necessary and proper.
- 22

23 DATED: June 8, 2011.


24 LINDA K. WHITNEY
25 Executive Director
26 Medical Board of California
27 Department of Consumer Affairs
28 State of California
Complainant

SD2011800461
80503176.doc